

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

FILED  
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2008 JUL 22 PM 2:08  
U.S. DISTRICT COURT  
SOUTHERN DIST. OHIO  
WESTERN DIV. DAYTON

JENNIFER M. DEACON, *et al.*, :  
 :  
Plaintiffs, :  
 : Case No. 3:07CV0322  
 :  
vs. : District Judge Walter Herbert Rice  
 : Magistrate Judge Sharon L. Ovington  
APOTEX, CORP., *et al.*, :  
 :  
Defendants. :  
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**DECISION AND ENTRY ADOPTING REPORT AND RECOMMENDATIONS FILED ON JULY 3, 2008 (Doc. #40); GRANTING IN PART DEFENDANTS' MOTIONS TO DISMISS (Doc. #s 9, 14 ) AND DISMISSING PLAINTIFFS' CLAIMS UNDER OHIO COMMON LAW AS ABROGATED BY OHIO REV. CODE §2307.71(B); DENYING DEFENDANTS' MOTIONS TO DISMISS (Doc. #s 9, 14) IN PART TO THE EXTENT THEY OPPOSE PLAINTIFFS' REQUEST FOR LEAVE TO FILE A FIRST AMENDED COMPLAINT; GRANTING PLAINTIFFS LEAVE TO FILE A FIRST AMENDED COMPLAINT, SUCH PLEADING TO BE FILED ON OR BEFORE AUGUST 5, 2008; AND CONFIRMING THE REMAINING DATES SET FORTH IN THE COURT'S PRIOR SCHEDULING ORDER (Doc. #20)**

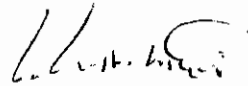
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The Court has conducted a de novo review of the Report and Recommendations of United States Magistrate Judge Sharon L. Ovington (Doc. #40), to whom this case was originally referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) has expired, hereby **ADOPTS** said Report and Recommendations. It is therefore **ORDERED** that:

1. The Report and Recommendations filed on July 3, 2008 (Doc. #40) is

ADOPTED in full;

2. Defendants' Motions to Dismiss (Doc. #s 9, 14) are GRANTED in part and Plaintiffs' claims under Ohio common law are dismissed as abrogated by Ohio Rev. Code §2307.71(B);
3. Defendants' Motions to Dismiss (Doc. #s 9, 14) are DENIED to the extent they oppose Plaintiffs' request for leave to file a First Amended Complaint;
4. Plaintiffs shall file their First Amended Complaint **on or before August 5, 2008**; and
5. The remaining dates in the Court's Scheduling Order (Doc. #20) are CONFIRMED.



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Walter Herbert Rice  
United States District Judge